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10/799,254	03/12/2004	Douglas J. Sanchez	30923811.WPD	8214

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EXAMINER

HAVAN, THU THAO

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3691

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/799,254	Applicant(s) SANCHEZ ET AL.	
	Examiner Thu Thao Havan	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 1-41 are pending. This action is in response to the remarks received January 22, 2007.

Response to Arguments

The rejection of claims 1-41 under 35 U.S.C. 102(e) as being unpatentable by Keresman, III et al. (US 7,051,002) is maintained.

Upon a closer examination, Applicant's arguments filed January 22, 2007 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

A.) Applicant alleges that the prior art made of record fails to teach requesting from a terminal information relating to settlement of the plurality of electronic payments. The examiner disagrees with applicant's representative since Keresman teaches requesting from a terminal information relating to settlement of the plurality of electronic payments when he discloses payment instruments in relation to merchant (col. 5, line 41-45, col. 10, line 47-63). Keresman discloses different types of payment instruments to conduct a commercial transaction over a communications network with a merchant. He discloses The consumers are each using one of a plurality of different types of payment instruments, the used payment instrument being either enrolled or not enrolled in an authentication program conforming to one of a plurality of authentication protocols

prescribed for the respective plurality of different types of payment instruments. The system includes: a connection layer for connecting with the merchants to exchange communications therewith, the connection layer receiving payment information for the transactions from the merchants, the payment information for each transaction including a number identifying the particular payment instrument being used, and etc,

B.) Applicant alleges that the prior art made of record fails to teach receiving at least one respective data packet having settlement information for each payment of plurality of electronic payments. The examiner disagrees with applicant's representative since Keresman teaches receiving at least one respective data packet having settlement information for each payment of plurality of electronic payments (col. 5, line 41 – col. 6, line 14; col. 5, line 25-33 and line 58-65; col. 10, line 47-63). Keresman discloses authenticated payments, allowing a merchant to securely and easily accommodate authentication of consumers and/or cardholders in accordance with a variety of authentication initiatives implemented by credit card networks, and to process electronic transactions through any payment network using a single platform. It also enables merchants to process these payments, regardless of which payment network they are to be routed through, with a single implementation. For example, the merchant sends an authorization/sale transaction to their payment gateway along with the data elements received from the PAREs. The payment gateway routes the data to the acquiring bank based on the acquirer's specification. The acquiring bank then sends the data via the appropriate credit card network to the issuing bank for settlement.

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C.) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., transaction settlement) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With regards to the claims rejected as taught by Keresman, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Keresman taught the claimed limitations.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

Claims **1-41** are rejected under 35 U.S.C. 102(e) as being anticipated by Keresman, III et al. (US 7,051,002).

Re claims 1 and 19, Keresman et al disclose a system and method for processing an electronic payment transaction (figs. 2-3, col. 3, line 11-15, line 30-34), comprising:

a processor (200, col. 7, line 22-65) located at a merchant site (col. 5, line 25-33 and line 58-65, i.e. the payment request is the checkout transaction initiated by the consumer/cardholder at his/her computer terminal 50 upon completion of a purchase transaction), the processor configured to:

receiving a request to process an electronic payment transaction from a payment terminal located at the merchant site (see col. 9, line 65 – col. 10, line 6), the request having a format type (col. 6, line 4-14, i.e. a plurality of different payment types);

determine the format type of the request (col. 6, line 67 – col. 7, line 5, col. 10, line 47-63); and

identify a host computer configured to process the determined format type;
and

an interface (i.e. 100, comprises interface module 102) located at the merchant site (col. 5, line 66 – col. 6, line 14; col. 5, line 25-33 and line 58-65), the interface being coupled to the processor and configured to:

transmitting the request to the identified host computer (col. 5, line 41-45, col. 10, line 47-63, Keresman et al disclose that because of the different types of payment, the formatted message will routed to the issuing entity i.e. "host" for authentication).

Re claims **2** and **20**, Keresman et al also disclose the processor (200, see also discussion w/r to claim 1) is further configured for receiving a notification from the identified host indicating whether the request is approved (col. 10, line 63-67, col. 11, line 1-20). Keresman et al disclose that the processor "MAPS" 200 receives enrollment status confirmation from the issuing entity i.e. "host" regarding a consumer/cardholder) and transmits this confirmation message to the merchant's server 100, i.e. the interface. Hence, it is inherent that a non-confirmed message about enrollment of a consumer/cardholder sent by the issuing entity to the merchant's server 100 constitutes an error message as claimed.

Re claims **3** and **21**, Keresman et al also disclose the interface (100, see discussion w/r to claim 1 above) is further configured for receiving a notification from the identified host indicating whether the request contains an error message (col. 10, line 63-67, col. 11, line 1-20). Keresman et al also disclose that the issuing entity i.e. "host" transmits a confirmation message about the enrollment status of a consumer/cardholder to the merchant's server 100, i.e. the interface via the processor "MAPS" 200. Hence, it is inherent that a non-confirmed message about enrollment of a consumer/cardholder sent by the issuing entity to the merchant's server 100 constitutes an error message as claimed.

Re claims **4-5** and **22-23**, Keresman et al disclose an authentication process wherein the processor is further configured for sending the notification to the payment terminal (See discussion w/r to claims 3 and 21, col. 10, line 63-67, col. 11, line 1-29). Keresman et al disclose that the processor "MAPS" 200 receives enrollment status

confirmation from the issuing entity i.e. "host" regarding a consumer/cardholder and transmits this confirmation message to the merchant's server 100, i.e. the interface. This enrollment confirmation status message is ultimately being relay to the consumer/cardholder via the merchant's server 100 web page).

Re claims **6** and **24**, Keresman et al disclose formatting data i.e. payment transaction requests into specific message format such as XML, and transmitting these formatted data over HTTPS protocol (col. 6, line 54-56, col. 7, line 1-7). Data packets having header information as claimed are inherently implied from the XML formatted data transmitted over HTTPS protocol.

Re claims **7** and **25**, Keresman et al disclose the processor "MAPS" 200 adapted to encode i.e. process/format message data into XML, and to transmit these data over HTTPS protocol (col. 7, line 47-50, col. 8, line 12-14). Encoding header information is inherently implied in the processing/formatting of message data into XML format to be transmitted over HTTPS protocol.

Re claims **8** and **26**, which further recite the header information is encoded using an Extensible Markup Language, see discussion w/r to claims 6-7 and 24-25 above.

Re claims **9** and **27**, in Keresman et al, the request for processing the electronic payment transaction relates to authorizing the transaction (see discussion w/r to claim 1. The authorization of payment is carried out through the authentication process between the merchant's server i.e. interface and the issuing entity i.e. "host" via the processor 200 "MAPS". See col. 10, line 53-67 for example).

Re claims **10** and **28**, in Keresman et al, the request for processing the electronic payment transaction (see discussion w/r to claims 1-9 and 19-27) is the process of settling the transaction (see also col. 5, line 66 – col. 6, line 14).

Claims **11-18** and **29-36** have been analyzed and rejected w/r to claims 1-10 and 19-28 above.

Re claim **37**, Keresman et al disclose computer and server to facilitate the electronic payment processing system and method. Hence, a serial connection inherently implied. For example, a USB (universal serial bus) connection.

Re claims **38-40**, Keresman et al disclose the same internet protocol as claimed (col. 5, line 58-65). TCP/IP is inherently implied in the internet protocol.

Re claim **41**, Keresman et al disclose processing electronic payment requests over the internet (see discussion w/r to claims 1 and 38-40). Hence, accessing the internet would inherently necessitate a modem.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

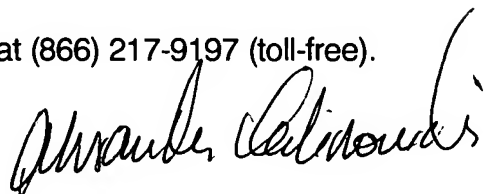
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached during her flexitime schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH
5/10/2007



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